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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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In the Matter of )  
)  
Amendment of Section 73.202(b), ) MM Docket No. 97-116  
Table of Allotments, FM Broadcast ) RM-9050  
Stations (Everglades City, LaBelle ) RM-9123  
Estero and Key West, Florida) )  
)  
TO: Chief, Mass Media Bureau  
Policy and Rules Division  
Allocations Branch

**REPLY COMMENTS OF SPECTRUM RADIO, INC.**

Spectrum Radio, Inc. ("Spectrum"), by its attorney, hereby submits the following Reply Comments to the Counterproposal and Request for Issuance of Order to Show Cause, submitted in this matter by InterMart Broadcasting West Coast, Inc. ("InterMart"), on June 9, 1997. In support thereof, it is shown:

1. By Report No. 2211, released July 10, 1997, the Commission announced that it had accepted a Counterproposal filed by InterMart which would provide for a change of location of FM Broadcast Station WKZY, LaBelle, Florida, to Estero, Florida. The Counterproposal, if adopted, would require a change in the operating frequency of FM Broadcast Station WEOW, Key West, Florida, from Channel 223C1 to Channel 224C1.

2. Spectrum is the licensee of Station WEOW(FM). Spectrum does not desire to change the operating frequency of Station WEOW(FM), and Spectrum respectfully opposes the

change in location of Station WKZY from LaBelle to Estero.

3. As shown by Exhibit 6 to InterMart's Counterproposal and Request for Issuance of Order to Show Cause, InterMart is proposing to move the transmitter site of Station WKZY some 33 miles. While Exhibit 6 to InterMart's Counterproposal is accurate, it does not fully depict the impact of this move. Attached hereto and marked Exhibit A is an enlarged color copy of a Rand McNally Road Map, which shows exactly what is going on here. As can be seen, the station is being moved from a rural area in the everglades (depicted on the road map with a replica of a picnic table) to an unincorporated community situated directly between Fort Myers, Florida, and Naples, Florida. From that unincorporated community (Estero), the station will serve both Fort Myers and Naples with a 60 dbu signal.<sup>1</sup>

4. In its Memorandum Opinion and Order on reconsideration in the matter of Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094 (1990), the Commission expressed concern with proposals that "would result in shifting of service from an underserved rural to a well-served urban area and the public interest consequences of any such change." Memorandum Opinion and Order, at para. 12. In this instance, Station WKZY is the only local transmission service licensed to LaBelle, Florida, and if Station WKZY is permitted to move to Estero, Florida, LaBelle will lose its only local broadcast service. True, as InterMart points out an application is pending (File No. BPED-970407MF) for a new non-commercial educational FM station at LaBelle. However, that application has not been granted, and InterMart has failed to show that even if it is granted the applicant, Toccoa Falls College, will provide any local service to the needs of the LaBelle

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<sup>1</sup>See Exhibit 6 to Counterproposal.

community.

5. For the above reasons, Spectrum opposes the proposed change in location of Station WKZY. If, however, the Commission is disposed to grant the counterproposal, Spectrum will expect to be fully compensated for all of its legitimate and prudent costs associated with the channel change. Unfortunately, those costs could be extensive and could be accompanied by considerable inconvenience, not only to Spectrum but also to the licensees of two or three other stations. (which is one of the reasons why Spectrum opposes the change).

6. Station WEOW(FM) is licensed to Key West, Florida. Key West is essentially an island, connected to the mainland by a long highway crossing the Florida Keys. The land area at Key West is very small and land is very dear. As a result, tower construction in Key West is very expensive and very difficult. The only tower of any substantial height which is located in Key West is the 600 ft. tower owned by Spectrum. Presently, three radio stations share space on Spectrum's tower, i.e., WEOW, WSKP, and WPIK. The antennas of two of the stations are situated at approximately the same height on the tower, and expensive filters have been installed to prevent undesired interactions between the two stations. The third station has its antenna separate from the others and does not employ filters. Negotiations are underway towards a fourth station locating its antenna on the tower.

7. Whenever three or more stations operate on a common tower, the potential exists for the production of undesirable spurious emissions. Depending upon the operating frequency, the antenna design and the location of the antennas on the tower, undesired intermodulation products and/or spurious emissions may be produced which require the installation of filters. At present, the three stations which share Spectrum's tower are operating without creating any problems. However,

a change in WEOV's operating frequency, even by one channel, completely changes the "mix" of potential intermodulation products and/or spurious emissions. Engineering studies could be made to determine exactly what would occur, but Spectrum feels that it should not be Spectrum's responsibility to pay for such studies if WEOV's operating frequency is to be changed for the benefit of InterMart. It should be InterMart's responsibility to have those studies done.

8. In the event that the Commission issues an order, directing Station WEOV to change operating frequency, the following steps should be taken at InterMart's expense:

(a) A full engineering study should be made to determine the impact of the change in operating frequency on the possibility of undesired interactions among the tenants located on Spectrum's tower.

(b) If the results of the study determine that any additional filtering is required, InterMart should be pay for the acquisition and installation of the required filters.<sup>2</sup>

(c) If it is determined that WEOV's antenna can be retuned, InterMart should pay for the cost of retuning. If it should be determined that retuning is not practicable, InterMart should pay for a new antenna.

(d) To the extent that it becomes necessary to retune the WEOV transmitter to the new operating frequency, InterMart should pay for the costs of retuning. Additionally, it will almost certainly be necessary to retune the existing filters and it will probably be necessary to have a factory representative to come to Key West for that purpose. InterMart should pay for these costs.

(e) Finally, InterMart should pay for the reasonable costs associated with the promotion of the change in frequency including, but not limited to the costs of promotional advertisements in print and other media, and the costs of new stationery, rate cards, and other promotional materials.

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<sup>2</sup>Spectrum does not necessarily believe that new filters will be required, but InterMart should be aware that such filters could cost as much as \$54,000 for each station located on the tower.

9. Because of the uncertainties resulting from the common use of a single tower by several stations, it is impossible for Spectrum to specifically identify the amount of money that would be required to accomplish the change in frequency. Spectrum would not expect InterMart to pay for any items that were not reasonably necessary and/or appropriate to accomplish the changeover. However, the Commission should make it clear to InterMart that it will be required at its own expense to take whatever steps are necessary to avoid spurious emissions from any of the stations using the WEOW tower, following the change in frequency of WEOW.

Respectfully submitted,

SPECTRUM RADIO, INC.

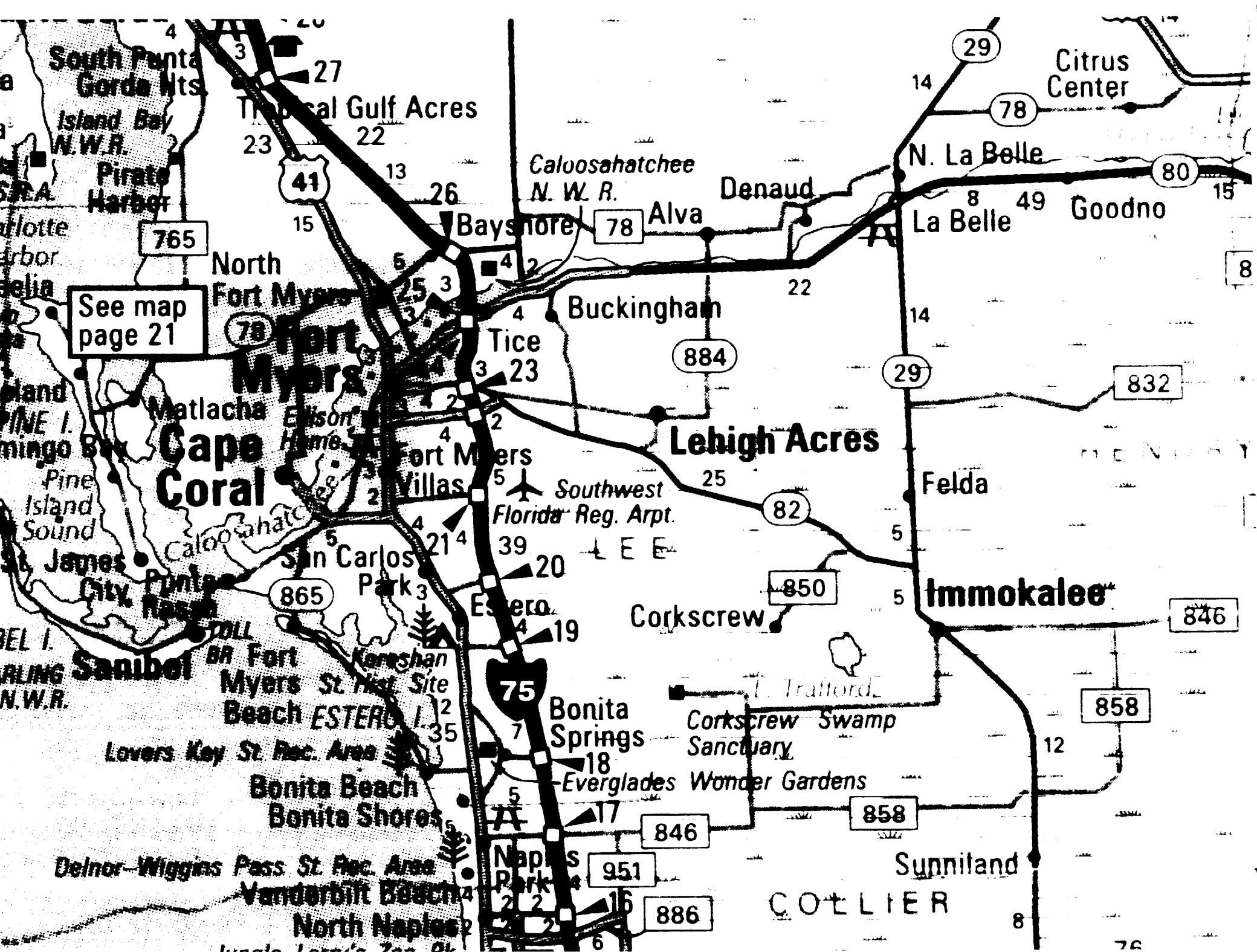
July 23, 1997

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By: 

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## EXHIBIT A



CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 23rd day of July, 1997, to the offices of the following:

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